



Washwood Heath
Multi Academy Trust

Overtime & TOIL Policy & Procedure

Prepared by:	Director of People, WHMAT
Applies to:	WHMAT Support Staff
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1.0 Introduction

- 1.1 This policy aims to give guidance to support staff employees on the operation of overtime and time off in lieu (“TOIL”) across Washwood Heath Multi Academy Trust (“WHMAT”). It aims to ensure that there is a process in place for employees to work in excess of their contracted hours **when absolutely necessary and appropriate and where appropriate approval is in place prior to any overtime being worked**. It also aims to ensure that employees are rewarded for such work in a fair and consistent way whilst avoiding an “overtime culture”.
- 1.2 This policy aims to give guidance only. It does not form part of an employee’s contract of employment or otherwise have contractual effect. This policy may be varied, withdrawn or replaced subject to consultation with relevant employees and the recognised trade unions.
- 1.3 For budgetary and equality reasons and in order to promote a good work-life balance, **WHMAT will actively encourage TOIL in advance of paid overtime for all support staff employees. However, support staff employees graded 1-4 may still be considered for and be paid overtime subject to meeting the requirements of this policy. Overtime will not be considered for support staff colleagues graded 5 and above. However, they may be eligible for TOIL subject to meeting the requirements of this policy.**

2.0 Scope of Policy

Support Staff Employees

- 2.1 For WHMAT, the payment of overtime applies to “relevant employees” only. From the date that this policy is ratified, this means support staff employees graded 1-4 may apply for and be eligible for overtime in certain circumstances and provided that relevant approvals have been obtained before the work is carried out (see further at 5 below).
- 2.2 Support staff employees graded 5 and above are not entitled to claim or to be paid for overtime but they may be eligible to be credited for TOIL. Overtime should be planned and allocated by functional directors and heads of academy so that employees at grades 1-4 and below are given the option of taking it up or of being credited via TOIL.

3.0 Definitions

Overtime

- 3.1 Overtime working occurs when a relevant employee (whether full-time or part-time) is required to work in excess of their normal contractual hours of work. Line managers should seek to ensure that the need to work overtime is kept to a minimum by planning workloads according to the resources available, and by supporting individuals to manage their own workloads and time effectively.

Time Off in Lieu (“TOIL”)

- 3.3 TOIL is regarded as time off that is accrued when a relevant employee works more than their normal contractual hours. It may be made available to a relevant employee if they are asked to work more than their standard hours to meet an organisational need. It will be used to reward employees in preference to paid overtime and is usually a manager-led request to meet a business need (see examples at appendix A) and TOIL conditions at 6.
- 3.4 WHMAT acknowledges that TOIL approved for term-time only colleagues will need to be taken during term time. In addition, TOIL will be calculated in the same way as overtime.

4.0 Overtime Rates

- 4.1 In the event that an appropriate manager approves paid overtime over TOIL, **support staff employees graded 1-4 who are required to work outside of their normal contractual working hours at the request of their line manager** are entitled to be paid as follows:
- 4.1.1 Time and a half for additional hours worked over 37 hours Monday to Friday (150%);
- 4.1.2 Time and a half for hours worked on a Saturday (150%);
- 4.1.3 Double time for hours worked on a Sunday or bank holiday (200%);
- 4.1.4 Double time for attending call-outs or emergencies between the hours of 10.00pm to 06.00am (200%);
- 4.1.4 Additional hours/time cannot be claimed for travelling to and from a place of work, regardless of the travel time/distance.

5.0 Requesting and claiming overtime

Eligibility

- 5.1 **Employees graded 5 and above are not eligible to claim overtime.** Overtime should be allocated to lower graded colleagues first and they are encouraged to take this up unless there are exceptional circumstances.
- 5.2 Relevant employees (i.e. those graded 1 to 4) may be eligible to claim overtime at the relevant rates (see 4.1 above) if:
- 5.2.1 they have completed a normal 36.5 hour working week before agreeing to take on overtime (note that in line with contracts, overtime is not paid until an employee has completed 37 hours per week). Part-time employees will be entitled to the enhanced rates once they have worked over their normal contractual hours
- 5.2.2 they have completed in full an overtime/additional hours form and this has been approved by their functional director and counter-signed by the Director

of Finance in advance of the work being undertaken – if this agreement has not been reached, then any additional hours worked will not qualify for overtime, unless there are exceptional circumstances e.g. in the case of an unexpected emergency call out or a call out during unsociable hours etc;

- 5.2.3 it is clear that there is a clear business need for the additional hours to be worked that cannot reasonably be dealt with using TOIL instead (see examples at appendix 1);
- 5.2.4 overtime should be based on the time taken to complete a task and should not include time taken to travel to and from a place or places of work within WHMAT, unless in the case of emergency call outs or call outs during unsociable hours (between 10.00pm and 06.00am).
- 5.3 All signed overtime/additional hours forms should be submitted to hroperations@whmat.academy by the relevant line manager (see appendix 2. Employees will receive payment through payroll in the normal way, subject to usual payroll deadlines, which are set by WHMAT's external payroll provider.
- 5.4 Relevant line managers who approve additional hours/overtime **must ensure that they make it clear to the employee, before they undertake the work, what remuneration, if any, they will be entitled to receive for working the additional hours i.e. TOIL based on an hour-for-hour worked basis, TOIL based on enhanced rates for weekends, or for emergency call outs etc as per 4.1 for overtime.**
- 5.5 Employees will not accrue any additional annual leave (over and above their contractual entitlement) for any overtime hours worked.
- 5.6 Paid overtime is pensionable. This means that both WHMAT and the employee pay pension contributions on this payment, and this becomes part of their pensionable pay figure if they retire (assuming they are a member of the Local Government Pension Scheme).

6.0 Requesting and claiming TOIL

- 6.1 All support staff employees may request and be credited with TOIL as an alternative to paid overtime. TOIL may be paid to support staff graded 5 and above as an alternative to overtime, which may only be paid in extenuating circumstances and provided that this has been supported by a business case and forwarded to the Director of People (see appendix 5) **before the work has been carried out, or within 48 hours of it being carried out in emergency situations e.g. emergency call-outs or call-outs during unsociable hours.**
- 6.2 Relevant employees should submit a TOIL form to their line manager in advance of taking the time, making it clear how many hours they are claiming and the purpose of the additional hours (see appendix 3). This should be approved by the line manager.

- 6.3 Even if a relevant employee has requested paid overtime, instead of TOIL, this should only be approved if the line manager is unable to justify the employee taking the time off at another time within 3 months of the time being accrued.
- 6.4 Where TOIL has been approved, this will be on an hour-for-hour-worked basis e.g. if 2 hours are worked, 2 hours can be credited/logged. Work completed at weekends will be paid at enhanced rates e.g. 150% for additional hours worked over 36.5 on a Saturday and 200% for additional hours worked over 36.5 on a Sunday, or during unsociable hours/for emergency call-outs. It should be taken as soon as possible after accrual, and not later than 3 months after accrual. Any TOIL accrued but untaken after this time will be lost unless there are exceptional circumstances e.g. due to operational needs or in case of employee absence. In these cases, an extension of up to 12 months may be given provided a business case has been submitted by the employee's line manager to WHMAT's Director of People. Term-time-only colleagues will be permitted to take their TOIL during term-time.
- 6.5 TOIL should only be taken if it has been approved. TOIL will only be awarded for periods of more than 30 minutes in any day. Employees can take approved TOIL in half hour blocks and also use it in conjunction with annual leave, where relevant e.g. a day off could be requested using a combination of leave as a half day, with the remainder taken as TOIL.
- 6.6 The total number of hours which can be accrued as TOIL in a rolling 12-month period should not exceed the equivalent of one working week (36.5 hours for a full-time employee).
- 6.7 For budgetary, equality and work-life balance reasons, WHMAT actively encourages managers to offer and reward employees via TOIL rather than via enhanced overtime rates if they are graded 5 and above.

7.0 Health & Safety

- 7.1 It is in the interests of the health and safety and well-being of WHMAT employees that work in excess of normal hours of duty in a working week (typically 36.5 for a full-time member of support staff) are kept to a minimum wherever possible.
- 7.2 When allocating/authorising overtime, line managers need to be aware of health and safety considerations and consider any potential risks to colleagues, particularly the following:
- 7.2.1 Fatigue - excess overtime may make employees tired, which may or may not lead to "burnout". Line managers should carry out risk assessments and carry take whatever steps are reasonable and necessary to eliminate or minimise those risks;
- 7.2.2 Breaks – in line with the Regulations, all employees who are required to work for more than 6 hours continuously are entitled to an unpaid rest break of 20 minutes within that 6-hour period. Colleagues under the age of 18 are entitled

to take 30 minutes break (unpaid) if they work more than 4.5 hours continuously;

- 7.2.3 Lone Working – if working alone is necessary, line managers should check that employees do not have any medical condition making it unsuitable for them to work alone. In addition, line managers should check that the environment where the employee is due to work is safe.

8.0 Working Time Regulations 1998 (the Regulations)

- 8.1 The Regulations state that adult workers (i.e. those aged 18 and over) cannot lawfully be required to work more than an average of 48 hours per week calculated over a rolling reference period of 17 consecutive weeks.
- 8.2 In order to promote a work-life balance for employees, WHMAT does not encourage its employees to “opt out” of the maximum 48 hour working week. However, if colleagues wish to do so in order to take up overtime opportunities, they should complete and return an opt-out form (see appendix 4). The line manager must discuss the form with the employee before signing it off, to ensure that by doing so, it will not have a detrimental impact on the employee’s health or cause unnecessary harm or stress to them. Once both parties have signed the form, the manager must promptly pass it to hropertations@whmat.academy before they carry out any increased working pattern.
- 8.3 Employees and line managers should also ensure that the following entitlements are adhered to as set out in the Regulations:
- 8.3.1 Employees are entitled to 11 hours uninterrupted rest break between each working day;
- 8.3.2 Employees are entitled to 1 whole day off per week, or 2 whole days off every 2 weeks – only in exceptional circumstances should employees be requested/permitted not to have at least 1 whole day of relaxation per week.
- 8.3.3 Employees aged 16 and 17 must not be permitted to work for more than 8 hours per day or 40 hours in any week, including overtime. Young workers are entitled to 12 hours uninterrupted rest break between each working day and are also entitled to 2 working days off each week.

9.0 Disciplinary Action

- 9.1 Any abuse of this policy may be treated as a disciplinary issue in line with WHMAT’s Disciplinary policy and may, depending on the circumstances, result in disciplinary action up to and including dismissal (see www.washwoodmat.com policies tab).

10.0 Policy Review & Storage of Paperwork

- 10.1 This Policy will be reviewed every 24 months by WHMAT’s Core Team Directors & WHMAT’s People Operations Manager to ensure that it is working effectively and that

it is complying with employment legislation and good practice. Changes will be subject to consultation with colleagues and recognised trade unions.

- 10.2 Supporting documents relating to this policy will be available on WHMAT's intranet. However, any relevant paperwork should be filed confidentially in a secure place for up to 6 years and destroyed securely in line with WHMAT's Retention of Records Policy, see www.whmat.academy policies tab.

Appendix 1 – Examples of when overtime or TOIL may and may not be claimed by relevant employees (although this list is not exhaustive)

Examples of eligible tasks (subject to prior approval by relevant manager)

1. Overseeing contractors/opening & closing buildings/supporting office moves or other works (especially during unsociable hours)
2. Supporting discrete projects that have urgent deadlines that cannot be done during normal working hours
3. Short term peaks in workload (e.g. sickness cover)
4. Out of hours essential meetings, committees or opening of sites e.g. for additional classes at weekends
5. Unplanned projects which cannot be scheduled or carried out by someone else due to the nature of the task/skills needed
6. Emergency call outs during unsociable hours e.g. to respond to security alarms

Examples of works NOT eligible for TOIL/Paid overtime

1. Work undertaken by employees but not at the specific request of their line manager or other appropriate manager
2. Routinely catching up with a backlog of work due to time management or other circumstances
3. Training attendance (including travelling time)
4. Attendance at conferences, dinners or networking events as a delegate
5. Study or completion of work towards a recognised apprenticeship standard
6. Travelling to and from home or between places of work within WHMAT

Examples of working patterns & payment of enhanced rates if planned overtime agreed

1. Full-time (5 days per week, Monday to Friday) support staff employee grades 1 – 4:
Paid overtime/TOIL could be authorised for additional hours worked in excess of normal contractual hours (Mon-Fri) and Saturday would be at enhanced rate of time and a half and Sunday would be at double time.
2. Part-time (4 days per week, Monday-Thursday) support staff grades 1 – 4:
Paid overtime/TOIL could be authorised for overtime worked on Friday and Saturday at enhanced rate of time and a half and Sunday would be at enhanced rate of double time.
3. Part-time (18.5 hours per week over 2.5 days, Monday, Tuesday and Wednesday morning):
Paid overtime/TOIL could be authorised at plain time/normal hourly rate for additional hours worked between the hours of 8.00am and 6.00pm. Approved overtime after this time may be paid at time and a half (Mondays to Fridays and/or Saturday) and double time on a Sunday. Overtime should be paid for hours worked over an employee's normal working hours.



EMPLOYEE ADDITIONAL PAYMENTS (EAP) RECORDING FORM

Employee's Name:		Payroll Number:			
Establishment Name:					
Position Title:					
Date	Start time	End time	Reason for Claiming Additional Hours	Total Hours	Cost Centre, if different from establishment
<p>Declaration: I declare that the information provided in respect of this claim is accurate to the best of my knowledge and submission of any claims that are knowingly incorrect may result in disciplinary action being taken. This claim is made in accordance with your establishments Terms & Conditions and a copy of this form has been retained locally.</p>					
Employee's signature:		Date:			
Manager's signature:		Date:			
Manager's name:		Manager's Position Title:			
For Office Use Only:					
Organisation Unit Reference Number:				Position Number:	
<p>Employee: Please return the completed form to your establishment's office. Establishment Office: Hours to be recorded are to be entered on the HR Portal Employee Additional Payments (EAP) Screen only</p>					

Appendix 4 – Working Time Regulations Opt-Out Agreement

Working Time Regulations Opt Out Agreement

Formal agreement is made between:

Name of employee and WHMAT

to waive my entitlement to restrict my working hours to a maximum 48 in each 7-day period, under **Regulation 5(1) of the Working Time Regulations**

1. This agreement is made following discussion with my employer and where appropriate my Trade Union Representative; and after careful consideration of any health and safety implications for myself of working in excess of 48 hours per week.
2. I confirm that I am not involved in any night work.
3. I understand my responsibility under this agreement to inform my manager if, as a result of working more than 48 hours per week, I believe my capability, health or judgement to be impaired such that it affects my ability to work safely.
4. I understand that this agreement will form part of my current terms and conditions of employment and can be terminated by myself by giving one month's notice in writing to my manager.
5. I understand that nothing in this agreement either directly implies, or infers that WHMAT will be obliged to provide regular overtime opportunities for me.
6. I understand that in agreeing not to be bound by the weekly working time limit, I will co-operate fully with my manager in ensuring that in each 7-day period I:
 - Keep an accurate record of the hours I have worked, to be sent to my manager
 - Take rest breaks when required to do so
7. In signing this agreement, I confirm that I have not been coerced, or persuaded against my judgement, by my employer to agree to work more than 48 hours per week in each 7-day period.

Signed: _____ (Employee) Date: _____

Signed _____ (Employer) Date: _____

- Copy to be given to employee
- Original to be retained on employee's HR file